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COMMITTEE ON BANKING, COMMERCE AND INSURANCE
January 17, 2006
LB 875, 876, 877, 778

The Committee on Banking, Commerce and Insurance met at 1:30 p.m. on Tuesday, January 17, 2006, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 875, LB 876, LB 877, and LB 778. Senators present: Mick Mines, Chairperson; Pam Redfield, Vice Chairperson; Mike Flood; Jim Jensen; Joel Johnson; Chris Langemeier; LeRoy Louden; and Rich Pahls. Senators absent: None.

MICK MINES: Well, it's 1:30 by that clock. I'd like to welcome all of you here. Welcome back or welcome for the first time. This is the public hearing for the Banking, Commerce and Insurance Committee. My name is Mick Mines. I represent Legislative District 18 and I'm Chair of this committee. This is the public part of the process. This is where you get an opportunity to talk with us about your thoughts and views on the bills that we will talk about today. To help us facilitate this a little better, a couple of rules. If you would turn off your cell phones, please. Prior to testifying, you'll find testifier sheets located either on the desk in front of me or by the doors. If you would complete those, have them ready to drop in the box when you come up to testify. And written materials, if you have handouts for the committee, please give them to our page and he will make sure that we all get a copy. We need ten if you have something to hand out and it will be inserted in the record. Listen to the testifiers in front of you so that we don't become repetitive and we can keep this moving right along. And feel free to move to the on-deck chair to get ready to testify. I'm going to ask you to spell your first and last names when you come up to the microphone and that is for the benefit of both our clerk and the transcribers when they type up the minutes. Now let me introduce the members of the committee that are with us today. I'll start on the short side of the panel. Senator LeRoy Louden from Ellsworth, Nebraska. On your far left, Senator Rich Pahls from Omaha; Senator Joel Johnson, Kearney; Senator Jim Jensen, Omaha; Senator Pam Redfield, Omaha; and the late and great Senator Mike Flood, Madison County, Nebraska. And introducing committee counsel on my right is Bill Marienau. Committee clerk is Jan Foster on my left and Joe DiCostanzo, Columbus, Nebraska, is our page today. The bills will be taken up in order are LB 875,

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LB 875

LB 876, LB 877, and LB 778. With that, we will begin with LB 875 and this would change and eliminate provisions. This is our insurance department bill and the committee has received it already, and I won't even bother getting out of my seat. Tim, if you'd like to come up, please, and explain the department bill, please.

LB 875

TIM WAGNER: (Exhibit 1) Good afternoon. My name is Tim, T-i-m Wagner, W-a-g-n-e-r. I am the Nebraska Director of Insurance and I'm here to testify in support of what's known as the department bill which is LB 875. The bill is a compoium of several issues into one bill. The first and perhaps the most significant is the section dealing with what is called suitability. And what suitability is about is it's formally referred to as the Senior Protection in Annuities (Transactions) Act. It is a verbatim NAIC model act. Most states have adopted it as regulation, but we've elected to run it by you as our Legislature so that you can pass on the key provisions of the bill. This model was in response to a number of complaints, both nationally and in Nebraska, regarding the sale of annuities to seniors. Oftentimes with annuities there are significant penalties for early withdrawal. As a result, seniors needed to leave some money outside this annuity structure for perhaps some expected expenses or perhaps small but unexpected expenses. We found that, in many instances, the bulk of an individual's assets were tied up in these annuities so when people went to access their monies there were significant penalties. Perhaps, though, the most significant issue dealt with what are called replacements. There are fees associated with withdrawing. There's also fees associated with replacing. In other words, if the annuity has been issued, we found instances where an agent that maybe even sold this annuity a year would come and say, we now have a new and better annuity. And, as a result, individuals rolled and were losing substantial amounts of money, not understanding what was going on. And what the bill does is basically provide some standards for selling annuities that somebody has to do an analysis of the needs of a particular individual that they're interested in providing annuity to to make sure that it's fair to that individual. The second issue is an MGA Act or Managing General Agents Act and

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Nebraska has this act. It is an NAIC model but as often is the case, there have been amendments to that model at the NAIC level and we simply want to bring our act into conformity with NAIC standards. The third provision of the bill deals with a withdrawal from the interstate compact on receiverships (Interstate Insurance Receivership Compact). This was an initiative created in the late 1980s. It was to provide transparency and responsibility in addition to judicial oversight in the liquidation of insurers. We had high hopes that it would become a national standard like the interstate compact (Interstate Insurance Product Regulation Compact) for product approval for life and annuities is becoming and which you have, in fact, enacted. Only three states joined the compact for receivership. As a result of that, it has been ineffective and simply unworkable so we're asking that we be given permission to withdraw from that compact. And that withdrawal date is at the end of 2007 and that's to give the other two states' Legislatures ample time to also withdraw so that all three of us can withdraw simultaneously, thus, sharing what little assets there are in the compact among the states. The fourth provision in the department bill deals with out-of-state policies. This is our group accident and health policies dealing with mandated benefits. Some states have allowed policies to be issued through trusts in their states in which the recipients...residents of that state receive mandated benefits related to the requirements of that state but receive no other mandated benefits. The other people are left high and dry that are not residents of that state. We tried to correct this in the last session. We used the term certificates when we should have used the term more appropriate which was policies. So this simply eliminates the word certificate and inserts the word policies. The fourth issue is group life premiums. This is somewhat of an oversight, I think, on the department's part and on the industry's part that has went on for many years. We have a state requirement, a requirement that group life policies be paid in toto by the employer, the premiums. Even in the state of Nebraska, we have a group life option in which the employee contributes a portion of those premiums to pay for the policy. We also have situations where an employer may provide a group life but premiums are assessed on the employees for the total amount. We're just making sure that the law conforms with practice which is that the employer need not pay a hundred percent of the premium, maybe some or

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a portion or none of the premium. The sixth thing I would like to talk about is an amendment which I'm going to discuss with you. This is an amendment to the Title Insurers Act. Title insurance, we do not have a domestic title insurer in the state and haven't had for many years. Nebraska has had the NAIC model a version ago. What we're asking you to do is provide some changes in the existing act. It would have the effect of, in some instances, lowering reserves and others reserves will be somewhat stable. We have a split reserve as to statutory reserves versus actuarial reserves, and I'll try to explain that. We have a requirement that even though actuaries may certify to a reserve as being adequate or appropriate, we have a statutory reserve which is simply a function of the premium of the exposure of the title insurer. Right now, our reserve is 12.5 cents per thousand for policies less than 500,000 and 25 cents per thousand for policies...I've done that the reverse, 12.5 cents for policies in excess of 500,000; 25 cents for policies less than 500,000. We're proposing a simple, uniform 17 cents per thousand of exposure as an appropriate reserve. The other thing that we're proposing is that if a company were to redomicile into our state, that it's unclear in the statute how those reserves would be earned in the event of a redomestication. We have a company that is interested in redomiciling into our state. And I have worked with that company with regard to these changes and if we can simply get these changes enacted, we do have an agreement that one or more of that entity's insurers would be redomiciling to our state. So with that, I'd like to pass out, if the clerk could take the amendments to that, we're asking for an emergency clause on the amendment. And the reason is that once we can get it effective we can begin to commence the redomestication process and the jobs that will go with that so with that, I'd like to entertain any questions of anyone regarding our proposals.

SENATOR MINES: Thank you, Director. Any questions for Director Wagner? Senator Johnson.

SENATOR JOHNSON: I had one that popped into my head and what it was is this. As you were talking about the annuities and changing them every year, I can see it from the legal side where, you know, we're keeping track of this person would be the ability of a client who has been done

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wrong (laugh) by an unscrupulous person who is rolling these over all the time so that he has some income off of this every year. What ability would the client have to sue the person who is "making bad investments" (laugh) for him every year?

TIM WAGNER: Well, we're certainly, Senator, engaged in the other side which is the administrative action. And we have taken action regarding several of the culprits. It's very difficult for me to opine and I haven't experienced any...they call this a private cause of action. There isn't anything in our legislation. This is an issue that is out there and I'm afraid I can't really respond.

SENATOR JOHNSON: Well, you know, I'm pretty ignorant of that type of law and that's why I asked...

TIM WAGNER: Yeah. As far as the insurer is concerned, there would not be a private cause of action but as regards the agent that has been unscrupulous I can't opine on that and I apologize.

SENATOR JOHNSON: Okay.

SENATOR MINES: Thank you. Any other questions? Very nicely done. Oh, I'm sorry, Senator Louden.

SENATOR LOUDEN: Sorry about that, Senator. Yes, this title insurance always intrigues me. A lot of times no one finds a problem with the title insurance until years later. Do these title insurance people put up a bond or what do they do to guarantee that that title is correct of what they claim it is in the future?

TIM WAGNER: Well, there are two segments, Senator, to the transaction. The first is the title agent. Oftentimes the title agent is doing a lot of the title searches and the work product of the title agent is, in a sense, the guarantee of the insurer or the title policy. That was one of the reasons...so the title insurer is regulated as another insurer, would be regulated. Regulated as to capital, regulated as to reserves. So while not covered by the Guaranty Fund per se, there is a regulatory system in place and while there have been a couple of title companies that have gone down, none that I'm aware of in recent years

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nationally, I'm talking about. It has not been a line that has been prone to that. We've had agent failures where an agent will abscond with money and we had a lot of legislative activity on that in the last few years, and we finally ended up making the insurer the regulated entity with the capital responsible for the acts of its agent so, in effect, there is a guarantee. Title insurers right now, there is a little debate because there were some issues with title insurers in the thirties and twenties. Title insurers are what are called monoline meaning that a title insurer can only write title insurance. There's some debate going on at the national level whether that is appropriate, but the thinking as to why they became monoline was that they didn't want...because it is a long-term contract and it can actually be years, you know, before a defect is discovered or generations that they not be subject to some of the underwriting volatility of other lines. So, I know we have discussed this issue before and I guess the public has been served in terms of the nonfailure of title insurers for the last few decades.

SENATOR LOUDEN: Well, what's the advantage, I mean, of a title insurance over an abstracter that brings abstracts up to date? I mean, they still have to search that title to see if all abstracts are brought up to date. While they're at it, why don't they print it up and record them?

TIM WAGNER: That's, you know, what we have in our bill is nothing...would not affect that. But from an academic perspective, I believe the Legislature in the sixties actually or fifties gravitated, along with the financial community, to the use of title insurance versus opinions rendered by attorneys. And it's a difficult question. I think the financial community, the lenders tend to want, demand a title policy versus an abstract or a title opinion from an attorney. We do have one state that has taken a different course on this issue. Since the sixties, there's been almost a total movement away from abstracting and attorneys to title insurance. Whether that's right or wrong is probably, you know, certainly debatable. Iowa has a system where they do have a state fund where attorneys read abstracts and a premium is paid to the state fund in case the reading of the abstract was in error. That's the only, to my knowledge, that's the only difference nationally on that issue so.

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SENATOR LOUDEN: Okay, thank you.

TIM WAGNER: Yeah, yeah.

SENATOR MINES: Thank you. Any other questions, Senators?
Nicely done.

TIM WAGNER: Thank you.

SENATOR MINES: Thank you. Could I see a show of hands of those that are in support, proponents? I see two, three, four. And the hands of those that are in opposition? None. And those that are in a neutral capacity wishing to testify? I see none. Four, next up. Ms. McKenzie, nice to have you here.

JANIS MCKENZIE: (Exhibit 2) Glad to be here, Senator Mines. Senator Mines, members of the committee, for the record my name is Janis, J-a-n-i-s McKenzie, M-c-K-e-n-z-i-e. I'm here today as executive director and registered lobbyist for the Nebraska Insurance Federation. We are here in support of all aspects of LB 875 and also the amendment that Director Wagner has provided you today. My printed materials for you this afternoon are the updated directory list of the membership of the federation that I thought you might find interesting to have in your materials and to see exactly who we are and who I work for. With that, I'd answer any questions.

SENATOR MINES: Thank you. Questions for Ms. McKenzie?
Seeing none, thanks for your testimony.

JANIS MCKENZIE: Thank you.

SENATOR MINES: Next up, Mr. Elliott.

JOE ELLIOTT: Mr. Chairman, my name is Joe Elliott, J-o-e E-l-l-i-o-t-t. I'm a lobbyist with the Professional Insurance Agents Association. We are totally supportive of the bill. In fact, I'm very pleased to see as much rhetoric as there is on managing general agents. I've been around this business for 50 years and I've seen problems exist for many, many years with managing general agents. And I think this hits a lot of points that I've seen. I've seen great

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successes with the Ringwalt Lacey (phonetic) firm which was acquired by the Berkshire Hathaway way back in 1967. And a lot of the business of national indemnity at that time was handled through managing general agents and very successfully. I've also seen the terrible experience that Mutual of Omaha had ten some years ago when they tried to venture away from the life and group business and went into the property casualty business. They got tied up with some MGAs down in Kansas City and it was almost a catastrophe. Millions and millions of dollars were lost in a short period of time. The claims lingered on because when you have a managing general agent you turn virtually a lot of the claim and accounting and everything. You virtually give them the pen and so go ahead and write this business. And so you better know what you're doing and controlling. Here you have a requirement for the managing general agent will...must have and maintain a surety bond for the protection of the insurer and the bond amount could be all the way from \$100,000 to \$500,000. It can't exceed that amount. But I would suggest to the department or whoever is going to draft this bond up that they make sure it's not cumulative because if you get in that situation you could have five years and all of a sudden \$2.5 million bond, and the premium on this bond is \$20 a thousand. So you'll be talking about a lot of money in a hurry and I don't think that is the intent but also make sure there's a cancellation clause in it. Surety companies don't like any bonds that don't have a cancellation period. They want to be able to get out of it. And in this situation, the managing general agent is probably going to have to put up collateral and a half million dollars of collateral could be from...depends upon how strong their financial position is. But, nonetheless, I think those are two key points I'd like to make and I think that the department could spell this out in the rules and regulations and that would take care of it but it's something to be cautious of. I have nothing else.

SENATOR MINES: Thank you, Joe. Questions for Mr. Elliott? Seeing none, thanks for your testimony. Nice to see you again.

JOE ELLIOTT: Thank you.

SENATOR MINES: Yes, sir, next.

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JIM HALL: Good afternoon, Mr. Chairman, members of the committee. My name is Jim Hall, J-i-m H-a-l-l. I'm representing the American Council of Life Insurers. That's a national trade association representing over 350 life insurance companies nationwide. They hold over 70 percent of the life insurance in force in the United States and over 80 percent of the annuities in force in the United States. We are here very strongly in support of LB 875, and, in particular, Sections 9 through 15, the Senior Protection in Annuities Transactions Act. The nation's insurance regulators at the NAIC worked hard to come up with these provisions. We think they are an excellent piece of consumer protective legislation and we commend Director Wagner and the insurance department for proposing this. We urge your support.

SENATOR MINES: Great, thank you. That was quick. Any questions? Great, Jim, thank you very much.

JIM HALL: Thank you.

SENATOR MINES: Nice to have you here. You're fourth, that's it (laugh).

DAVID MCBRIDE: Somebody has to be last (laugh).

SENATOR MINES: Dave, nice to see you today.

DAVID MCBRIDE: (Exhibit 3) Nice to see you. I will turn in something official for the record. My name is David McBride, D-a-v-i-d M-c-B-r-i-d-e. Before you as the executive vice president and lobbyist for the Nebraska Association of Insurance and Financial Advisors, we, too, are here in support of the bill. Our members are the agents and advisors across the state that are selling annuities as well as other products. And we are particularly interested and particularly supportive of the Senior Protection in Annuities Transaction Act portion of the bill. Our national association was one of the entities that worked with NAIC to develop the model language and so nationally, as well as in the state, we're very much in support of that and see that as an appropriate step to protect consumers and would encourage your support.

SENATOR MINES: Great, nicely done. Questions for

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Mr. McBride? Seeing none, thank you. Is there anyone in the audience wishing to testify in an opposite or as an opponent? Anyone in a neutral capacity? I see none for both. With that, thank you testifiers and that will close the public hearing on LB 875. We'll now move to LB 876 and this is the department bill for the Nebraska Department of Banking and Finance. And I won't even get up for that one either, John. If you'd like to come forward and tell us about your bill. John, you know how to clear a room.

LB 876

JOHN MUNN: (Exhibit 1) (Laughter) Happens every time.

SENATOR MINES: Nice to have you here.

JOHN MUNN: Thank you, Senator. Chairman Mines, members of the Banking, Commerce and Insurance Committee, my name is John Munn spelled J-o-h-n M-u-n-n. I'm director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB 876 which was introduced by the committee at the request of the department. LB 876 proposes to revise and update the laws governing financial institutions and finance-related entities under the jurisdiction of the department. LB 876 proposes several amendments to the Nebraska Banking Act. The first would amend the law which sets limits on the amount banks can loan their customers by addressing the formula for calculation of these lending limits. Under generally accepted accounting principles, goodwill is to be included as a part of a bank's capital accounts in certain situations. The addition of goodwill primarily occurs when a bank is merged or sold. Overnight the size of the bank's capital account can double even though no cash has been added and, consequently, the lending limit will also substantially increase. If the overall condition of the bank has not been good, if the bank has shown poor loan administration, or if the bank simply is not prepared or staffed to handle such an increase, it may not be in the best interests of the bank. The proposed amendment will give the department authority to issue orders limiting or denying use of goodwill in lending limit calculations. We expect that the impact of this amendment will be small because of the limited number of situations where a gap allows the inclusion of goodwill. The second

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proposed amendment to the Nebraska Banking Act would extend the short-form procedure currently in place for national banks converting to state banks to national banks that have trust departments that wish to convert to state-chartered banks with trust departments. The short form procedure for conversion of national banks was adopted by the Legislature in 2002, but the change did not make clear that the procedure should also include those national banks that have the authority to operate a trust department in the bank. This amendment corrects that inadvertent omission. LB 876 also provides for the annual renewal of the three wild-card statutes. These laws are known as equal rights laws in that they provide parity between state-chartered banks, credit unions, and savings and loan associations with their separate federal counterparts doing business in Nebraska. These laws require annual reenactment due to a provision in the state constitution that prohibits reference to federal legislation which has not yet been adopted. The emergency clause is requested for these provisions. The department is proposing a number of amendments to the Nebraska Sale of Checks and Funds Transmission Act. This act regulates sellers of money orders and travelers' checks as well as money transmitters. Currently, there are 39 such licensees operating at approximately 1,500 agent locations in this state. LB 876 addresses administration enforcement issues under the Sale of Checks and Funds Transmission Act. The bill provides that hearings to suspend or revoke a license under the Sale of Checks and Funds Transmission Act will be conducted in accordance with the Administrative Procedure Act unless a license is voluntarily surrendered or a licensee fails to maintain a surety bond or does not renew its license. In those cases, simple notices of expiration and notices of cancellation of licenses can be issued. Another important amendment to the act provides that liability for administrative fines for acts committed prior to voluntary surrender, revocation, cancellation, or expiration of a license continues even after termination of a license. This proposal was intended to prevent persons from surrendering a license in order to escape liability for violations of the act. Other provisions relative to enforcement of this act include the granting of authority to the department to issue cease and desist orders for violations of the act and provide for the rights of persons affected by the orders. The act is further strengthened by providing investigative powers to the department and

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providing authority for civil enforcement actions to be brought by the Attorney General. LB 876 will also make clear the rights of customers to enforce transactions under the act and the right of the state to enforce the act through criminal or civil means. These proposed changes to the Sale of Checks and Funds Transmission Act strengthen the state's ability to effectively monitor this growing area of finance. LB 876 proposes seven amendments to the Nebraska Mortgage Banker Registration and Licensing Act. The first amendment makes clear that any advertising including advertising or solicitation on the Internet constitutes an offer under the act. The effect of this definition will be that any advertising by a nonlicensed person will be an automatic disqualification from the exemption from licensing that is available to persons who make ten or less offers in a 12-month period. A second amendment provides that if an officer, director, shareholder, partner, or member was convicted of a felony under state or federal law, or convicted of a misdemeanor involving either mortgage banking, financial institutions, or the installment loan business sufficient cause for denial of a mortgage banker license will exist. Third, LB 876 provides that revocation, cancellation, or expiration of a mortgage banker license does not affect the department's ability to assess an administrative fine for activities committed prior to revocation, cancellation, or expiration of that license. As I indicated with respect to a similar amendment in the Sale of Checks and Funds Transmission Act, this will address those licensees who surrender a license, thinking they can avoid compliance with the law or avoid responding to customer complaints. A fourth amendment to the Mortgage Bankers Act would increase the base amount of the surety bond required for licensees from the current \$50,000 to \$100,000 in order to provide increased protection to Nebraska borrowers. Current licensees would have until March 1, 2007, to comply. Fifth, LB 876 would expand the list of actions prohibited to a mortgage banker licensee, its officers, agents, and employees. These entities and persons would be barred from false advertising regarding the qualifications of the licensee in the mortgage banking business, borrowing money from a customer or applicant, and personally loaning money to a customer or applicant. The department has recently discovered all of these bad business practices in applicants or licensees and believes that their adverse effect on Nebraska consumers requires a statutory

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prohibition. In a sixth amendment, LB 876 would provide that the department's investigative authority is available not only for a cease and desist order proceeding, but also for any investigation and administrative action. The bill proposes to accomplish this by moving current statutory language relating to cease and desist orders to a new, general investigation statute. The seventh and final Mortgage Bankers Act amendment would increase the administrative fining authority of the department from \$1,000 to \$5,000 per violation to provide for more effective enforcement of the act, as we believe that entities which regularly deal in transactions over \$100,000 consider a \$1,000 fine as just a cost of doing business and not as a penalty. The perception of cost versus penalty does not promote compliance with the act. A five-fold increase in potential penalty may have the desired effect of greater compliance. Finally, I would like to offer a correcting amendment for a drafting error on page 15 of the bill at line 22, and this amendment was handed out with my testimony. The department believes that LB 876 will contribute to the soundness of the state's financial industries by promoting efficient regulation and consumer protection. And I want to close with thanks to the committee for its introduction of the bill. Thank you.

SENATOR MINES: Thank you, John. Questions for Director Munn? Senator Jensen.

SENATOR JENSEN: Yes, on your...well, it would be the second amendment on the mortgage bankers. If a shareholder partner or member was convicted of a felony under state law involving businesses of mortgage banking, if they had a felony for doing drugs, that would not count in this. Is that correct?

JOHN MUNN: As I read it, it would have to involve either mortgage banking, financial institutions, or installment loan business.

SENATOR JENSEN: Thank you.

SENATOR MINES: Any other questions, members? Thank you, Director Munn.

JOHN MUNN: Thank you.

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LB 876

SENATOR MINES: Nice to see you here today. Hand of those wishing to testify in support of the bill? I've got Mr. Hallstrom, I've got two. And listing or a show of hands of those wishing to testify in opposition and, or a neutral capacity show of hands? Be a short one. Bob.

ROBERT HALLSTROM: Chairman Mines, members of the committee, my name is Robert J. Hallstrom. That's R-o-b-e-r-t H-a-l-l-s-t-r-o-m. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB 876. We are fully in support of the department's bill. Of particular note are the provisions for the reenactment annually of the state-chartered banks and S&L wild-card provisions, the provisions granting discretionary authority with regard to the computation of goodwill when looking at a state-chartered bank's lending limit, streamlined provisions for conversion of national banks with trust departments to state-chartered banks with trust departments, and the strength and enforcement investigative authority of the department over mortgage bankers. With that, I'd be happy to address any questions.

SENATOR MINES: Mr. Hallstrom, thank you. Questions? Pretty quiet group up here today. Thanks for your testimony, Bob.

ROBERT HALLSTROM: Thank you.

SENATOR MINES: Next testifier, please? Brandon, nice to see you.

BRANDON LUETKENHAUS: (Exhibit 2) Nice to see you. Mr. Chairman, members of the Banking, Commerce and Insurance Committee, my name is Brandon Luetkenhaus, B-r-a-n-d-o-n Luetkenhaus, L-u-e-t-k-e-n-h-a-u-s. I'm here today on behalf of the Nebraska Credit Union League. Our organization represents 90 percent of Nebraska's 78 credit unions and there are more than 420,000 members. I appear before you to offer our association's support for the measures contained in LB 876 as they pertain to credit unions. Specifically, I'm here to support the annual credit union wild-card provision as it is extremely important to state-chartered credit unions. Our association strongly supports the dual-chartering system whereby a credit union

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can choose either a state or federal charter and can move from one charter to another. Choice of credit union charter and regulation, in our opinion, is crucial in creating an innovative operating environment in and for which all credit unions and consumers can benefit. The wild-card provision is essential to state-chartered institutions because it provides clarity to those areas not specifically addressed by state statutes and extends parity in the services which can be offered by state-chartered credit unions. I would respectfully request the committee support the advance of LB 876. Thank you.

SENATOR MINES: Thank you. Any questions? Brandon, how many credit unions are there in Nebraska?

BRANDON LUETKENHAUS: Seventy-eight.

SENATOR MINES: Seventy-eight and roughly how many are state-chartered versus federal-chartered?

BRANDON LUETKENHAUS: Twenty-six are state-chartered.

SENATOR MINES: All right.

BRANDON LUETKENHAUS: The rest are federal.

SENATOR MINES: All right. Thank you.

BRANDON LUETKENHAUS: And I do have...

SENATOR MINES: Thanks for your testimony. Anyone else want to testify on LB 876? Seeing no one then I'll close this hearing on (LB) 876 and we will open the public hearing on LB 877 which is a change of community development investment conditions for banks. And Director Munn, you're up again.

LB 877

JOHN MUNN: (Exhibit 1) Chairman Mines, members of the Banking, Commerce and Insurance Committee, my name is John Munn, J-o-h-n M-u-n-n. I'm director of the Nebraska Department of Banking and Finance. I'm appearing today in support of LB 877 which was introduced by the committee at the request of the department. LB 877 proposes to update

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section 8-148.04 of the Nebraska Banking Act. This statute provides the authority for state-chartered banks to make for-profit community development investments and sets guidelines and limits for those investments. Current law provides that a bank can make a direct investment or purchase an equity interest in certain community development projects. The maximum amount that a bank can invest in any one community development project is 5 percent of its capital and surplus. The maximum amount a bank can invest in all community development projects or entities is 10 percent of its capital and surplus. However, under current state law, it is required that a single community development subsidiary of the bank may only administer these activities to the extent of 5 percent of a bank's capital and surplus. For a bank to invest the additional 5 percent of capital and surplus allowed, it would need to form a second community development subsidiary. LB 877 proposes to allow a bank to administer all of its community development projects through a single subsidiary created for that purpose. The maximum amount of investments in the aggregate will remain unchanged at 10 percent. National banks have authority under federal regulations similar to what is proposed in LB 877. From the information available to the department, it does not appear that the authority creates any undue risk to the bank. LB 877 can have the effect of allowing banks to simplify their administration of community development projects. I want to close with thanks to the committee for its introduction of the bill.

SENATOR MINES: Thank you. Any questions? John, let me give you an example and I understand the premise behind this, but let me give you an example that a bank has one of the members of the board of directors that would like to open a convenience store in a small community. And then you set up a separate corporation, right, with the CDC, and can lend...let's say you can lend 10 percent to that particular convenience store because it could be termed economic development. It's kind of a stretch, but it could. Who stands...first of all, is there an objection in including a member of the board of directors being part of that process or are they prohibited from becoming part of that process?

JOHN MUNN: LB 877, the underlying act is only applicable in a situation where the bank, through its subsidiary, has ownership of that asset. Any loan that would be made to a

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director for any purpose is subject to Regulation O, federal regulation as far as loans to insiders. But that loan would not be impacted if that director is in an ownership position.

SENATOR MINES: And not-for profit organizations are not benefitted by this.

JOHN MUNN: Correct. Generally, when a bank makes a contribution toward a nonprofit community development activity, that is considered an expense to the bank and cannot be capitalized.

SENATOR MINES: Great. So I see this as a tool for probably rural Nebraska and for economic growth in those rural areas.

JOHN MUNN: And to provide basic services. You know, if there was already a Kwik Shop providing those services within the community, the department would probably not approve a Kwik Shop as a for-profit community development project for a bank...

SENATOR MINES: Great, thank you.

JOHN MUNN: ...if the needs were being met.

SENATOR MINES: Thank you. Any other questions? Thanks for your testimony. I'm sorry?

JOHN MUNN: With your indulgence, I just about got sat down before my general counsel corrected me on my response to Senator Jensen's question on (LB) 876. Conviction of any felony would be a disqualifier in that regard. I'm glad I had this chance to rebut myself.

SENATOR MINES: (Laugh) Thank you. And Patti, thank you for that.

JOHN MUNN: Thank you.

SENATOR MINES: How many testifiers in support of the bill? I just see one. Those in opposition or neutral? I see none. Mr. Hallstrom, you're it.

ROBERT HALLSTROM: Chairman Mines, members of the committee,

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my name again is Bob Hallstrom, B-o-b; apologize to the clerk for spelling that backwards. Hallstrom, H-a-l-l-s-t-r-o-m. The Nebraska Bankers Association, I'm a registered lobbyist for them. I appear in support of LB 877. We think the Legislature has done some wonderful things in the area of economic development to help grow the state. This is just another tool that allows particularly, I think, the application in rural areas of a streamlined administrative approach to the community development investments that are currently allowed for state-chartered banks. We'll allow them to do it within one subsidiary to the maximum aggregate amount allowed, and we think that's good law. We would urge the support of the bill.

SENATOR MINES: All right, thank you. Any questions for Mr. Hallstrom? Seeing none, that was a fabulous job. Thank you so much. Seeing no other hands, no one else wishing to testify? We will close this public hearing and move to LB 778. Senator Langemeier. Nice to have you here.

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SENATOR LANGEMEIER: (Exhibit 1) It's a great committee to be in front of.

SENATOR MINES: Is this going to hurt?

SENATOR LANGEMEIER: It's going to hurt.

SENATOR MINES: Okay (laughter). The floor is yours.

SENATOR LANGEMEIER: Good afternoon, Chairman Mines, members of the Banking, Commerce and Insurance Committee. I am Senator Chris Langemeier. It's L-a-n-g-e-m-e-i-e-r, Langemeier. I am here at the request of the Nebraska Appraiser Board to introduce LB 778. The purpose of LB 778 focuses largely on the necessary and mandatory changes to the Nebraska Real Estate Appraisers Act which are required due to changes in the qualifying criteria as adopted by the national Appraisal Qualifications Board referred to as AQB in February, 2004. The original criteria was adopted by AQB in early 1991 and included Certified General, Certified Residential, and License classifications. The Trainee classification was added in 1993. After public exposure,

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the AQB adopted revisions to all the classifications in 1994 which includes the following: (1) Increase the education requirements for the Licensed and Certified General classifications including 15 hours of Uniform Standards of Professional Appraisal Practice, USPAP course. The Certified Residential education requirement was not increased. However, the USPAP course is required. (2) An increase in the experience requirement for the Certified Residential appraiser from 2,000 hours to 2,500 hours and Certified General appraiser from 2,000 to 3,000 hours. (3) An increase in the continuing education requirement from 10 hours to 14 hours for all classifications. After thorough public exposure, the AQB adopted significant revisions to the criteria as mentioned on February, 2004. These revisions are set for implementation, January, 2008, and the highlights are: (1) Increase in education requirements of a Licensed, Certified Residential and a Certified General classification. Licensed classification was raised from 90 hours to 150 hours. And the Certified Residential was increased from 120 to 200 hours, and the Certified General classification was increased from 180 hours to 300 hours. And these are in the grid section on the back of the handout I handed you. (2) The requirement of college level education for the Certified Residential and Certified General classifications. The Certified Residential classification requires an associates degree or higher, or in lieu of a degree, a minimum of 21 college semester hours in specific coursework. The Certified General classification requires a bachelor's degree or higher, or in lieu of a degree, a minimum of 30 college semester hours in a specific coursework. For Nebraska appraisers to remain in compliance with Title XI, which is a mission of the Nebraska Real Estate Appraiser Board, it is necessary to amend the act as it now exists. LB 778 has a second section that relates to registered appraiser designation that is in the state of Nebraska statute only. This license level was put into place to account for the previously licensed appraisers in Nebraska prior to the enactment of Title XI in FIRREA, Financial Institution Reform, Recovery, and Enforcement Act in July 31, 1991. The intent at that time was that the registered license holders would move up the licensure levels. And this level would then be terminated, but this was never addressed. This section would terminate the issuing of registered license levels as of January, 2012,

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and would limit starting January 1, 2006, the number of renewals to three. And I'd like to thank the committee and the Nebraska Appraiser Board will testify behind me. If there's any questions.

SENATOR MINES: Thank you, Senator. Questions? Senator Redfield.

SENATOR REDFIELD: Senator Langemeier,...

SENATOR LANGEMEIER: Yes.

SENATOR REDFIELD: College course requirements or a degree. The degree can be in any field of study, a French major, a biology major. How does that help you be a better appraiser?

SENATOR LANGEMEIER: I think that it's a federal mandate to set that and it is a good question, Senator Redfield. The thought behind...my belief, too, the thought behind the higher level of education is to show some commitment to being a registered, Certified General, Certified Residential appraiser. To take those people that want to get a license just to have it as a fallback position, over time in life to say, oh, we can always go back and be an appraiser, it's to show a commitment, I believe, and a higher level of knowledge to say this is a career choice I have decided to take and this is a profession.

SENATOR REDFIELD: So, it wouldn't have anything to do with just minimizing the number of people who might choose to go into the field?

SENATOR LANGEMEIER: The goal, I believe, and I can't speak on behalf of the federal board is to make appraisers, as we be depended on more and more and more by lending institutional as their eyes and ears out in the field and liability purposes, they want to make sure those people are becoming more and more professional and raise their level. So they want people that are committed to be in it and committed to be professionals in the industry.

SENATOR REDFIELD: Thank you.

SENATOR MINES: Senator Jensen.

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SENATOR JENSEN: Yes, thank you. And I'll just follow up on that a little bit. How many appraisers are there in Nebraska right now?

SENATOR LANGEMEIER: Roughly, and they can answer that more correctly behind me, roughly about 800.

SENATOR JENSEN: Well, we have, of course, in banking there's more and more requirements that all properties must have an appraisal on those. And I just hope we don't get to the point where the requirement for the appraisals don't match the number of individuals that are out there who are able to do those appraisals in a timely fashion. Perhaps somebody behind you can answer that.

SENATOR LANGEMEIER: The commitment and the expense to become an appraiser is increasing. As a Certified General and file a conflict of interest on this particular bill. The expense to have my license and to maintain my license is expensive.

SENATOR MINES: Any other questions? Senator Louden.

SENATOR LOUDEN: Yeah, Senator Langemeier. What are the requirements now to be an appraiser? Do you have to have a college education or do you just have to be able to pass a test?

SENATOR LANGEMEIER: You have to take a minimum, if you look on the back, well, it's not on this one, for Registered because Nebraska is the only state that recognizes it. It's a number of coursework hours and pass a test to become registered. And then from there you have to have experience in the field, hopefully, supervised, by a higher level license, and then it's a testing process to move up.

SENATOR LOUDEN: Now, if this is enacted into law, does that do away with part of that now or do you just require more education?

SENATOR LANGEMEIER: The education requirement continues to rise and that's what this bill would do is raise the requirements to raise levels of licensing. Correct.

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SENATOR LOUDEN: I'm wondering like residential appraisers, there's different...the way I understand it, three different categories there.

SENATOR LANGEMEIER: Correct.

SENATOR LOUDEN: Does it take that...does it really have to have a college education to be a residential appraiser?

SENATOR LANGEMEIER: I would believe the level in knowledge is important as you become more reliable and more liability to usually one's largest purchase an individual makes in their lifetime. I think you could sell the idea that, yes, you need more education.

SENATOR LOUDEN: Okay, thank you.

SENATOR MINES: Any other questions? Senator, as I understand it, there is an importance in moving part of this bill. There's a time where part of this expires soon. Can you get into that for a minute?

SENATOR LANGEMEIER: The federal mandate change goes into effect 1-1-2008. If we do not pass that portion of this legislation by 2008, all the appraisers in Nebraska become decertified in federally-related transactions. So there will be no lending that an appraisal is required, correct.

SENATOR MINES: And does that apply to specific parts of this proposed legislation or?

SENATOR LANGEMEIER: Everything except the registered section to limit the 2012 and the renewal structure.

SENATOR MINES: Okay.

SENATOR LANGEMEIER: That is an additional add.

SENATOR MINES: Great, thank you. Thanks for your testimony. Could I see a show of hands, those that wish to testify in support of the bill? One, two, three, four, five, six. Those that will testify in opposition, could I see a raise of hands? You got to have one for Langemeier (laughter) and those that are testifying in a neutral capacity. All right, we have proponents. Please come

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forward.

JILL EKSTEIN: Good afternoon, Mr. Chairman and committee members. My name is Jill Ekstein. It's J-i-l-l E-k-s-t-e-i-n. I am the director of the Nebraska Real Estate Appraiser Board and I appear before you today on behalf of the board in support of LB 778. LB 778 is designed to adopt the necessary and mandatory changes to various sections of the Nebraska Real Estate Appraiser Act which are required due to the changes in qualifying education and experience criteria adopted by the Appraiser Qualifications Board in February of 2004. I want to reiterate to all of you the importance of this criteria implementation. Nebraska is a mandatory state so appraisers have to be credentialed in the state to do appraisal work. And if we don't get this new criteria implemented by January 1, 2008, as the senator previously testified to, they will become decertified and will not be able to appraise federally-related transactions. Beginning on January 1, 2008, there will be a new category known as the Trainee Real Property Appraiser. Individuals will be required to complete 75 classroom hours of board-approved education and they have to train under the supervision of a certified residential or certified general appraiser. Nebraska currently has a somewhat unique category of appraiser credential known as the registered appraiser. The category is not federally recognized and it's not recognized by the AQB. Beginning in January 1, 2008, an applicant for the registered real property appraiser credential will receive no more than three annual renewals. From a practical standpoint, the new trainee real property appraiser will allow individuals wishing to enter the profession the ability to practice the appraisal of real estate while under direct supervision of a certified general or certified residential appraiser. This will ensure the proper training of individuals entering the appraisal profession while, at the same time, promoting and maintain the high level of public trust. There has been much discussion regarding the future sunset of the registered appraiser credential. What must be understood, at this point, is that the registered appraiser credential was never intended to be a permanent category. During the initial period of implementing, Nebraska accepted the concept of the transitional licensing to allow appraisers to continue the profession even though they did not meet all of the

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educational or experience requirements established by the AQB. With the current criteria for the registered credential, the qualifications are still not met with the experience. With the new criteria and implementation of the trainee real property appraiser classification, the registered classification will no longer be necessary because practicing appraisers will have ample time and opportunity to meet the new requirements for education and experience. Typically, no more than two years will be required to satisfy the missing requirement of experience. LB 778 is submitted to the Nebraska legislative session, and as it is currently written, has been fully endorsed by the Nebraska Real Estate Appraiser Board. For Nebraska's appraisers to remain in compliance with Title XI, which is the mission of the Nebraska Real Estate Appraiser Board, it is necessary to amend the act from its current state today. Thank you.

SENATOR MINES: Thank you, Ms. Ekstein, for your testimony. Any questions? Senator Louden.

SENATOR LOUDEN: Yeah, did I hear you correctly, Jill? What happens if Nebraska doesn't do...you said they wouldn't be...appraisers wouldn't be allowed to appraise what kind of federal?

JILL EKSTEIN: Federally-related transactions that the lending transactions...like in banking institutions. If Nebraska appraisers don't maintain that federal certification, they will not be able to do federally-related transactions. Appraisers will have to come in from out of the state to do those transactions.

SENATOR LOUDEN: Now, when you say federally-regulated transactions, which one do you mean by that? Is that where federal government is involved or?

JILL EKSTEIN: Well, the banking institutions, for instance, that are FDIC insured, those are federally-related transactions.

SENATOR LOUDEN: Yeah, okay. And what about your Farm Credit Services and some of those like that?

JILL EKSTEIN: If it's a federally-related institution, that

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will eliminate all of Nebraska's appraisers if they're not certified.

SENATOR LOUDEN: Okay, one other question. What does a college degree in algebra have to do with appraisal (laughter) over someone with experience, I guess?

JILL EKSTEIN: Well, I think I would have to stand behind Senator Langemeier on this. I think the federal regulatory agency or the Appraiser Qualifications Board feels that people that will stick with the education and have the determination to get a degree or take some of the advanced course material that is accepted in lieu of the degree are more apt to maintain the professionalism and keep the public trust that's needed for the appraisal profession.

SENATOR LOUDEN: Um-hum well, okay, thank you. We'll let it go at that.

JILL EKSTEIN: Okay.

SENATOR MINES: Any other questions for Ms. Ekstein? Senator Redfield.

SENATOR REDFIELD: I do have a question. I'm looking at the handout here that came out of the Appraiser Qualifications Board. Now, it looks here that they adopted the revisions and they spent a great deal of time studying this, meeting with people, deciding what qualifications they wanted. Then did they go to Congress and ask Congress to change the criteria, or is the burden on us placed there by this board or is it placed there by Congress? That's my question.

JILL EKSTEIN: The Appraiser Qualifications Board was enacted for Title XI which is the federal legislation. They are the ones that set this criteria and then they are our federal oversight so we have to abide by their mandated changes.

SENATOR REDFIELD: So Congress initiated them. They didn't go to Congress and ask for the change. Thank you.

SENATOR MINES: Any other questions? Jill, if I can, you mentioned something about the trial. What do you call the...?

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JILL EKSTEIN: The trainee.

SENATOR MINES: The training.

JILL EKSTEIN: Um-hum.

SENATOR MINES: And that is good for how long?

JILL EKSTEIN: The trainee classification will be...it's believed it will be two years. If they stay in that classification longer than two years, that level of credential will also be required to complete the 14 hours of continuing education...

SENATOR MINES: Okay.

JILL EKSTEIN: ...per year that all of the other credentialed appraisers have to achieve as well.

SENATOR MINES: Okay. So if tomorrow I decide I'd like to be an appraiser,...

JILL EKSTEIN: Um-hum.

SENATOR MINES: ...I'd have two years to complete 14 hours of training? That's continuing ed.

JILL EKSTEIN: No, the trainee level...yeah, the trainee level has a minimum of 75 hours of education. They do not, unlike the other, the licensed, residential real property and the certified residential and certified general, as a trainee they are not required to pass a state examination. But they are required to be trained under the supervision of a certified appraiser, either certified residential or certified general.

SENATOR MINES: Okay. So I'd have to do 75 hours and then if I don't have a college degree or have not attended college I also have to get 21 hours of college credits to be a certified residential and 30 hours to be a certified general. Is that correct?

JILL EKSTEIN: Um-hum...

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SENATOR MINES: So I've got to do that within...

JILL EKSTEIN: ...but you don't have to start. The important thing is you don't necessarily have to start at the bottom. Like right now, the current way the credentialing is in Nebraska, an applicant does not have to come in and achieve the registered level of credential in order to move up to another level. They can start the education, meet the requirements for the level that they're interested in and test at that level.

SENATOR MINES: Okay, I'm confused. I apologize.

JILL EKSTEIN: Oh, that's okay.

SENATOR MINES: Help me through this. Let's just say I'm bound and determined to be a certified general.

JILL EKSTEIN: Um-hum.

SENATOR MINES: And I've not been to college and in order to do that, what must I do in what time frame?

JILL EKSTEIN: Well, you would have to...if you have not been to college, you would have to either get...to be a certified general, you'd either have to have a bachelor's degree or 30 hours of semester credit hours in education classes. On top of that, then you have to have 300 hours in the new criteria of appraisal education courses. And then you have to meet the experience requirement and take the test at that time.

SENATOR MINES: And how long a period of time do I have to do this?

JILL EKSTEIN: I think it's two-and-a-half years for the experience, a minimum so you have...I mean there's no real time frame.

SENATOR MINES: Okay. But my temporary or the lowest level license...maybe I'm confused. Do I need that to even get involved?

JILL EKSTEIN: As long as you continue to take the 14 hours of continuing education...

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SENATOR MINES: Then it continues.

JILL EKSTEIN: ...then, yeah, then it's okay.

SENATOR MINES: Okay. And under this legislation, are existing certified general and existing certified residential exempt from meeting these same qualifications? Are they grandfathered? Okay, so they...

JILL EKSTEIN: If they're currently a certified general appraiser, then...

SENATOR MINES: ...they aren't required to meet these.

JILL EKSTEIN: Right.

SENATOR MINES: Okay. Is that part of the standard that we're trying to meet, the federal standard that we're trying to meet? I assume all this language is language that has been directed by the federal association and/or Congress. Is that correct?

JILL EKSTEIN: Um-hum.

SENATOR MINES: Okay, so we're not trying to create anything or give exemption that isn't already exempted?

JILL EKSTEIN: Uh-uh.

SENATOR MINES: Okay, great. You did great.

JILL EKSTEIN: Thank you.

SENATOR MINES: Any other questions for Ms. Ekstein?
Senator Louden.

SENATOR LOUDEN: Just one observation, I guess. Do you know how much education it takes to be a physician's assistant?

JILL EKSTEIN: No.

SENATOR LOUDEN: Well, I'm wondering how this compares is all and thanks anyway.

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SENATOR MINES: Thank you for your testimony. Well done. Next testifier in support? No, you can't testify again (laughter). You can close. You can't testify. I need testifiers in support of this legislation. Good afternoon.

JOHN BREDEMEYER: Good afternoon. Mr. Chairman and members of the committee, my name is John, J-o-h-n Bredemeyer, B-r-e-d-e-m-e-y-e-r. I have been an appraiser in the state of Nebraska for approximately 26 years and currently president of Realcorp Appraisal Services in Omaha, Nebraska. In 1995, Governor Nelson appointed me to a five-year term on the appraiser board where I served for three years. I'm the past president of the Nebraska Chapter of the Appraisal Institute, past president of the Nebraska Mortgage Association, and currently serve as a trustee and treasurer of The Appraisal Foundation which was established by Congress to establish and promulgate standards and qualifications, but today I'm not speaking on behalf of the Appraisal Foundation. I am, however, speaking in favor of LB 778. It does have two parts. The first is to bring Nebraska into compliance with the 2008 AQB, Appraisal Qualification Board's criteria, and, secondly, is to sunset the registered credential. Just a little history. In 1974, Nebraska was only one of four states in the country to credential appraisers. It was really a process of experience and you had to be a real estate broker for, I think, a minimum of two years. But it was recognition of the need for minimum criteria to become an appraiser. As a result of the savings and loan crisis in the eighties, The Appraisal Foundation was created by Congress to establish those national standards and qualifications. The Nebraska Real Estate Appraiser Board was also established at that time. Three credentials for federally-related transactions were established: licensed, certified residential, and certified general. But as has been mentioned before, the question was, what do we do with this group of people who were licensed as of 1974, but didn't necessarily want to meet those federal national standards so the registered classification was created. And it grandfathered, at that time, those individuals. And it really wasn't the intention to have this, you know, continue into perpetuity, but part of that provision, though, was part of the concern was that there wouldn't be sufficient number of appraisers throughout the state to service those needs. So that legislation did allow for education and testing those registered

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individuals. But the concern was, there was no experience attached to that registered classification. And it's been talked about, we really do need to move the profession ahead. After 15 years, it's time to sunset the registered credential. But it wouldn't be fair to call up the 300 or so registered appraisers tomorrow and say you're out of business. As the directors indicated, a method for sunsetting has been established that's fair but still the end result will be to improve the profession. The other part of LB 778 is the compliance with the 2008 AQB criteria. As a practicing appraiser, as an educator, as somebody who hires and trains appraisers, I can tell you that the criteria was set too low to begin with. But, once again, there was that concern in the industry, in the profession, that there wouldn't be enough people to serve the needs. LB 778 moves to increase the education experience to an appropriate level for today's complexity. As a practicing appraiser, as an educator and an employer, the 2008 criteria is not burdensome. It is appropriate for what's required by today's appraisers. I'd be glad to discuss any of the specific criteria. I don't know that it's necessary but certainly would be glad to discuss that with you. I know there's been some questions regarding the college education requirement and first, you know, what does a degree in French necessarily have to do with being a real estate appraiser? The goal, I believe, of the qualifications board was recognizing the skill levels necessary today to be an appraiser. And there's some in academia who say, well, everybody should first get a liberal arts degree so they can communicate, so they can think clearly, and then move on to the area of their profession. And I think that kind of recognizes what the AQB is saying here is that the ability to transfer through four years of higher education, you do learn how to research. You do learn how to communicate. You do learn higher level thinking that really is required today. And I'd respond to Senators' question about the need to know algebra. This morning we looked at a 7,000 square foot house in Omaha that had...I'm not sure it had one straight wall. And I would have to say this morning the need to be able to work with those kinds of mathematical skills was very evident. And the need residually and commercially to understand discounting, to understand how statistics work, is more and more necessary in today's practicing appraiser. So, I'd love to see the ability to have all of our appraisers have a degree in real estate and

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we're fortunate at UNO that we do actually have degrees in real estate. And we're fortunate to be able to do that but in lieu thereof, I think it recognizes the need for those skills to be able to serve in today's more complex appraisal arena. But I would like to thank you for the opportunity to testify today and if you have any questions I'd certainly be glad to answer those.

SENATOR MINES: Thank you, John. Questions for Mr. Bredemeyer? Senator Johnson.

SENATOR JOHNSON: Take everything I'm going to say as theoretical because I don't know the facts well enough to present them as facts.

JOHN BREDEMEYER: Sure.

SENATOR JOHNSON: But my basic question is, how do we control one individual's or appraise the appraiser (laugh), if you will, compared to the standard of the industry? What I'm getting at is I have been told that out in our area, there was an ethanol plant that was appraised and their numbers were entirely different than every other ethanol plant in the state of Nebraska. Now, there would be some advantages to the local people in that by having double the value of everybody else, in the short run, it would be good for the local tax situation. For economic development, of course, it would be terrible because the likelihood of anybody wanting to add on to a plant under those circumstances would be minimal and probably everything else from there on might suffer from the same constraints. How does your industry go about getting a consistency and what would be the appeal process with the appraisal industry?

JOHN BREDEMEYER: Well, there's several things. One is the Nebraska Appraiser Board was established to regulate appraisers in the state of Nebraska. So, if the appraiser acted, you know, incompetently and that would be based on peer review by individuals qualified to render that opinion. And, in this case, whether it was the ethanol plant or, you know, a house in O'Neill, or an office building in Lincoln, it'd be very similar. If somebody had a question about the value or how the appraisal was completed, you can do a couple of things. One is you can, as a user of appraisal services, I would talk to the appraiser and ask them how,

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first of all, how they came to it. The other thing you could do would be get another opinion just like you would for a physician, or an attorney, or an accountant perhaps, if you disagreed with their professional opinion. That would be appropriate. And then probably the third would be if you felt as though the individual acted incompetently or fraudulently, then it would be to advance that to the appraiser board who has the responsibility, the charge, to regulate appraisers. And, at that point, they would investigate the appraisal to see if appropriate, acceptable techniques in theory were applied. And, at that point, render a judgment whether the appraiser acted competently or not.

SENATOR JOHNSON: Thank you.

JOHN BREDEMEYER: Thank you, sir.

SENATOR MINES: Any questions? Senator Louden.

SENATOR LOUDEN: Yeah, well, thanks for clarifying some of this, I guess. The reason I've asked some of these questions about this is because, at the present time, you can't hardly borrow money, mortgage anything, purchase land, settle an estate or anything without an appraiser. If there's any question risen at all on settling estates, even if one person is the sole heir, you still may need an appraiser. What I'm wondering here by so doing with this type of education and all, are we creating a profession that there will be a place where we can't afford to have those people? By that, I mean, we know the price of appraisal will go up. And when you start having this criteria, you know it's going up because your criteria in here is already above a teacher's certificate if I read it correctly. It's bordering on a physician's assistant. This gets into big bucks. And I'm wondering if somewhere along the line you're setting your criteria a little bit too far. Perhaps our community colleges could have a short course in there on appraisal or something like that, with experience. I think that's important, experience in appraisal, real estate, or whatever. This is where I have the problem. Are we really setting the criteria way too high? When you have to have a bachelor's degree and have to have a college degree in algebra, I don't care what kind of building you have, you can take a little computer made in China and figure out

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every square foot in that house and on the wall and so forth. You can even run down to Sears and buy a little machine to poke around on the wall like that and tell you how many square foot in the room. So, you don't have to have the degree in algebra to figure it out.

JOHN BREDEMEYER: Senator, that's an excellent question and it's a concern...I served on the appraiser board for five years. And that was always a concern of ours that there were sufficient number of qualified appraisers throughout the state. And I'll speak on behalf of somebody who hires and trains appraisers, who educates them, that this criteria is not too high. Personally, in our company, we exclusively hire real estate grads because we know what is required and that's significantly higher than the criteria set by the AQB and what we're asking you to implement. But, no, I do not believe sincerely that this is...yeah, I don't believe, first of all, that it's burdensome. I think that there will be adequate number of appraisers throughout the state and the third is that I don't think it's appropriate to have less than qualified individuals regardless of where they practice throughout the state, performing appraisals, whether it's for estates or for banking or whatever criteria. If we think about so often, particularly from a residential arena, is the home that an individual buys is the greatest asset that they're ever involved in. And I believe as a professional appraiser that those individuals deserve...they don't have to have Ph.D.'s to be able to appraise property appropriately. But they certainly do need to come to the table adequately prepared educationally and as well as experience. So, I seriously, Senator, I believe that these are appropriate and would encourage you to support it.

SENATOR MINES: Any other questions? If I might, Mr. Bredemeyer, there's a presumption and there's a common thread presumption that those are credentialed with the residential qualification, are less than capable of doing the job. And I don't know that that presumption is accurate. Can you convince me otherwise?

JOHN BREDEMEYER: Hopefully, the problem is from that registered classification, I think probably in 1989 the appraisers that we grandfathered in probably were qualified. They had been brokers which meant that they'd been an agent

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for three to five years. They'd been a broker for two years. Now, those individuals may not have necessarily been able to render all the nuances of sophisticated commercial appraisal, but at least I believe that they had the ability to render credible opinions. But the problem is as we moved ahead is that we allowed these individuals to be credentialed as registered with a minimum amount of education, a test, but as we all know, tests don't necessarily test whether you were fully qualified. So you had minimal education and minimal testing and then no experience, no experience. So, somebody, you know, with a few hours of education were out practicing their profession. And I can speak to the fact, as I say, as an employer and trainer of new individuals, that you wouldn't...I can assure, you wouldn't want them appraising your property with that level of experience. Now, with that, you know, if they were mentored properly over long, you know, long enough period of time and were willing to continue their education, sure, they probably would be qualified or could be. But the way we have it established today, I would not want anybody in this room relying on that. And that's as simple as I can get it. Yes, sir.

SENATOR MINES: Relying on a residential classification.

JOHN BREDEMEYER: Yes, that registered, yeah.

SENATOR MINES: That registered, I'm sorry.

JOHN BREDEMEYER: That's correct.

SENATOR MINES: How does, I'm thinking in rural Nebraska and I see that...or you mentioned there are about 300 residential appraisers and there are how many, about 700 total appraisers in the state?

JOHN BREDEMEYER: I believe so. I haven't seen the most current, but I think those are pretty...

SENATOR MINES: So if we cut the total number by 300, we're going to have about 400 left. I think it makes sense that...Senator Louden made the point, the prices are going to go up. It's just the way it is. I mean, in the real world, in practice, that's kind of what happens. Prices will go up. You'll have more expense to be an appraiser,

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and I appreciate that. But in greater Nebraska where there are fewer...you got 400 total in the state. I'm guessing most of them are in the metropolitan areas. How does this help the average Nebraskan that's going to buy his house, \$100,000, \$150,000 house. How does raising the price to get an appraisal on just a very basic home, how does the average Nebraskan benefit?

JOHN BREDEMEYER: Well, let me respond two or three ways. One is, of the 300, I'm not certain that they're all practicing. There are individuals out there that have that registered credential that really aren't practicing. So that's one thing. So, of the 700 or 800 total, I'd say, well, a majority of the license certified, residential and certified general are practicing. So of these 300 and I think that's a correct number but that aren't actually practicing. The other is, and it's our hope is to move those individuals to a licensed or certified, residential or certified general credentialing. And it's our opinion that most...and we're giving a long enough period of time for those individuals to be able to do that. You know, it would be wrong to, like I say, to cut them off at the ankles. But we are giving a long enough period of time to do that. The intention then is for those individuals to improve their skills and education and for most who are practicing, it won't take that much more to move into that classification. So, to ask how does this benefit the state, the individuals and citizens of Nebraska, what it does is it recognizes that we do want professional appraisers and that if we say as the state of Nebraska, as the Nebraska Real Estate Appraiser Board, if we're putting our stamp, then we ought to be sure that they are qualified. And, frankly, right now, I'm not sure of that. In fact, I'm very concerned that they're not. And if we have the citizens of Nebraska looking to us to say that your barber is qualified, that your lawyer is qualified, that your doctor is qualified, I think we have the same responsibility to those same citizens for residential or commercial piece of property that they're getting a credible opinion of value. So, I think that's where we see the advantage.

SENATOR MINES: Thank you. Good answer. I have one more. There is discussion about the college level education. If that were stricken from this bill and I should have asked Ms. Ekstein when she was here, if this committee would

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choose to amend the bill by eliminating college level education, how does that impact the authorization or credibility or whatever it is? Is that...

JOHN BREDEMEYER: That's a good question and I'll answer it, I believe, with the correct answer. If I'm wrong, please correct me. But unless it is passed as implemented, then we don't qualify. Then we don't meet that criteria. So it is very important that we don't tinker with it, that we do pass it as presented so that really is very important.

SENATOR MINES: Great, thank you. Any other questions? Thank you, Mr. Bredemeyer. You did a great job.

JOHN BREDEMEYER: Thank you very much.

SENATOR MINES: Thank you. Next testifier. I see you're on the on-deck circle. Welcome.

CAY LACEY: (Exhibits 2, 3) Hello. My name is Cay Lacey, C-a-y L-a-c-e-y, and I am an appraiser in the state of Nebraska and I'm also an appraisal educator. You've got, I suppose, before you someplace, the AQB requirements. I'm one of the AQB certified USPAP instructors in the state. I think there's five or six of us who do that, and we spend our focus on teaching this little document to appraisers. And this covers personal property, business appraisal but, you know, our focus here is real estate appraisal. That's a very important document and it's called Uniform Standards of Professional Appraisal Practice which is just what it says. It's not maximum standards. It tends to be minimum standards. One of the most important things for our discussion in this document is something called the competency rule and the competency rule requires appraisers (a) to know what they're doing. And if appraisers realize they don't know what they're doing, they're supposed to tell their client, woops, I haven't done this ethanol plant. I haven't done an ethanol plant before. And then they are compelled to either become competent or associate with someone...become competent, and one of the ways is to associate with someone who is competent. And then they're compelled to put in their report that they were not competent. So that probably explains a lot of what you saw. The problem is, how do you get that competency? And that comes through education and experience. I specialize in

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healthcare properties. I do nursing homes and assisted livings and things like that all over two states. I'm also licensed in Iowa. And I have a nice clientele doing that. My degrees are in English; they're not in real estate or algebra. But I also spent some time as a chem major and I can tell you that the appraisal profession is a profession for a generalist. There's macro economics, there's economic analysis, there's all sorts of things that goes on in terms of understanding the market you're working in and understanding how that market impacts your property and the investment atmosphere, or the climate surrounding that particular property and all those nuances, as John said, the fine details that go into the economic analysis that is a major component of any appraisal. Those of you who have had appraisals done in your homes recently know that you need to address the neighborhood situation; you need to address the viability of the community; you need to be in tune with transportation and linkages within the community, all sorts of items and things that appeal to a generalist like me, but that may not necessarily seem to have value. So I'm very strongly in favor of the college equivalency right now. I know that in our firm, and we're one of the larger firms in Nebraska, we hire like John does, the people who have college backgrounds because we need that general education background to prove the ability to do the research, to understand, to take the data and convert them to meaningful things that help the lender, in most situations, or the borrower, or the buyer, or the estate holder, or whomever, to understand the nuances that surround that valuation. So, competency is a huge issue. But if we have people who do not realize they're competent, we have another huge problem. I teach enough real estate classes, real estate appraisal classes, that occasionally I have some strange things happen. I had a student call me after a very short period of time several weeks after having the introductory class and say, Cay, I need some comparable sales of a car wash. And I said, put down the calculator, step away from the car wash, you're really not competent to do that. This person did not realize that he needed to explore the number of cars in the neighborhood that might, you know, patronize that. He didn't have any idea about the necessity for looking at demographic issues to support the income stream from that potential car wash. It was a proposed car...he says, but it's just a little building. You know, it doesn't matter because this is income driven and if you're not competent to

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do this income approach, you should not be doing this property. And I was very stern with him and told him if I heard that he had done the property I personally would see that he was severely chastised. And I don't think he did the property and he said, golly, you know, it's a good thing I called you. Well, that competence is a big issue and it plays into this committee directly because of the issue of predatory lending, which I don't think has been mentioned yet today. I've got to tell you it's out there. Several years ago, the general accounting office did a study and produced a report...this was in 2003 called Opportunities to Enhance Oversight of the Real Estate Appraisal Industry because of problems that were surfacing, scams in the Poconos. Lots of people were being hurt by fraudulent lending activity and there were appraisers who were in cahoots; they were in collusion; they offered fraudulent values. There were lenders, not banking necessarily, but people who were on the money side of the deal who were collecting the proceeds from these loans. And I've got to tell you, in this state, we don't see a whole lot of predatory lending. But what we do see is that the people who are most susceptible to the pressure to hit the number or give me an appropriate value or I won't give you any more business are those people with the least experience and the least education. And you know which category I'm talking about. They do not have the background. I'm not saying there are not registered appraisers who aren't fully qualified to do this work, but there are a number of them who are susceptible to that kind of pressure. And the whole process, we live and die by market. And the number of appraisers who will come into a situation lives and dies by the market. Five years ago when prices were escalating and everybody was walking around with a clipboard, I would have classes of 20 or 30 people. Now that the word b-u-b-b-l-e, you know, the potential for some decline in the real estate market or at least leveling in the real estate market is clearly out there on the horizon. Interest in this profession has somewhat waned, but it doesn't mean that qualified appraisers are not still very interested in producing reputable, supportable, reliable appraisals for their clients. And in answer to your question about how long does it take to make an appraiser, in our firm about five to six years is what it takes from the time we get somebody in the door with his nice, fresh shiny polished degree to get the breadth of experience and the number of

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different property types and the oversight. In other words, the broad picture, the ability to look at this property and say, you know, it's not just like this property, but some of these things apply and to be able to make those sophisticated decisions. It takes a long time and it's backed up by both education and experience as well as the formal education. I have for you a one-page summary that I wrote on this bill, and I also have a little print-out on the center for...the National Reinvestment Coalitions has created a center for responsible appraisals and valuations which is a specific response to some of the issues of predatory lending. It's very short; it's an Internet item...

SENATOR MINES: Great, thank you.

CAY LACEY: ...and you can look at, if you want, and then the other thing is just my view of why I think this legislation is so important to the profession and to the state.

SENATOR MINES: Thank you, Ms. Lacey, thank you. Are there questions for Ms. Lacey? I see none. Thank you for your testimony.

CAY LACEY: I must have spoken too long.

SENATOR MINES: Thank you. No, you're fine, you did a nice job. Mr.--I'm not going to say it.

ROBERT HALLSTROM: Chairman Mines, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraska Bankers Association to register our support for LB 778. I think it's interesting to see the questions that have been asked by the senators today because those are the very questions that the parties that are most interested in this type of issue, lenders, realtors, appraisers, and the like, have asked since the implementation of these criteria back in the early to mid nineties. And those are the issues of whether or not the levels of education and experience are too high to ensure that we will have competent and qualified appraisers in sufficient numbers to do the appraisal work that's required. I rest assured that not myself but others in my industry along with the other industries and

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professions that I have referenced have been involved in the high-level discussions at the federal level when the initial education and experience requirements were adopted. And now in the mid-nineties when they were raised and again, now when they're raised with regard to the college courses or the educational experience and so forth. So I think that to the ability or the degree that we can, we can rest assured that the parties that are most interested in this have asked the same tough questions that this committee has today to their understanding and assurances that we are not overdoing it with the educational experience requirements. Having said that, I'd like to back up a little bit. When we look at the history of the Real Estate Appraisal Act in Nebraska, the Bankers Association has been involved intimately in this issue since its inception. We, too, were concerned about those types of issues initially, about the issues of registered appraisers and providing that training ground for the next generation of appraisers, if you will, and we think that the system has worked fairly well to this point. We've had a number of registered appraisers who, in fact, have worked their way through the process, through the educational experience requirements, and now are licensed appraisers or higher. One of the things that we didn't look forward enough to, and Senator Langemeier has captured in the bill here today, is that there ought to be some limit on how long a person can be in that registered status, and that is the three successive annual renewals. One thing that we didn't anticipate, we didn't anticipate that there would be perpetual or habitual registered appraisers. And, at some point, it's time to move up or move out, move on as the case will be. And so we are very supportive of those provisions that provide a limitation. We also understand that there are other issues over time that have been raised with registered appraisers. Some of those that haven't been addressed today have to do with the very title. Is a registered appraiser title somewhat misleading and perhaps showing more credentialing or experience than that individual may possess? The lack of experience has been talked about. But, again, we don't throw the baby out with the bath water. We give those people time to move on or move out, as Senator Langemeier's bill has proposed but come the end of 2011, we then are going to allow the new category of trainees to have worked its way up from January 1, 2008, to show and prove its metal that it's going to provide that next generation of competent, qualified appraisers. And, in

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essence, we think the compromise that's been reached here with Senator Langemeier's assistance is we ease out the registered and we ease in the trainee, and we will know by the end of 2011 that we have properly and appropriately set the stage so that that next generation of appraisers, qualified and competent appraisers, will be there to help out. And one last thing I'd like to testify about, we've talked a lot about federally-related transactions today, and we've never gotten to the core of what that means. From the banking industry's perspective, federally-related transactions is basically related to a concept of the de minimis exception that was set forth in the FIRREA legislation under which the appraisal standards and requirements and minimum education experience requirements were established. And that federally-related transaction or de minimis exception is set at \$250,000 so any particular loan transaction that has a loan involved of \$250,000 or more is going to be subject, depending upon the type of transaction that it is, whether it's a simple one to four family residential complex, one to four family residential, or an event over a million dollars, in which case then you need the highest level of certified general. So we have those types of categories, the transaction level and the type of transaction establish whether you need Licensed, Certified Residential, or Certified General. Anything below that or that doesn't involve a loan either doesn't require an appraisal or it can have an appraisal conducted by someone within those categories or without them. And in closing, we simply support the bill that Senator Langemeier has come forward with. We think it's a reasonable compromise with regard to the registered appraiser status and is intimately important for our perspective in adopting those AQB criteria that are mandated by January 1, 2008.

SENATOR MINES: Thank you, Mr. Hallstrom. Questions?
Senator Louden.

SENATOR LOUDEN: Yeah, Bob. When you start talking about bankers and appraisal, that's where I've had some experience. Whenever your banks loan money to an individual or something, as you say, at a certain amount they have to have an appraiser, right? Or they get an appraiser?

ROBERT HALLSTROM: That's when it would be mandated by the federal requirements over that \$250,000 level, although many

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other transactions will involve an appraisal.

SENATOR LOUDEN: Who pays for that appraiser, the bank or the customer?

ROBERT HALLSTROM: Well, it probably varies, Senator. You know, you might say at the end of the day, the customer always pays in one form or another. But as far as the direct cost of the appraisal, there are some banks that do not charge it through as part of their origination fee package and others that do.

SENATOR LOUDEN: And I was going to say, any of them I've ever been familiar with usually you had...the customer usually ended up paying it. So I can see why you would probably be for this bill because this isn't something that for the most part the banks are going to be the ones that are out the money. The customer is the one that's going to be out the money. The next question I would have then, do you think that there should be some amendments put in here so that on banking transactions, that the banking industry would be the one that would have to pick up the tabs without passing through...sort of like sales tax?

ROBERT HALLSTROM: Yeah, I wouldn't support any of those types of amendments, Senator. And, again, I guess I take a little bit of exception. I'm not sure that the banking community is going to look at this bill and say, oh, gosh, we can support it because it's going to increase cost and the consumer is going to pay them. Any time you've got increased cost to the transaction, it impacts the number of loans that you can make, the number of loans you can make back in your community for economic development purposes and to advance your community. So I don't think you can just carte blanche say, we'll just look blindly on the fact that costs may increase.

SENATOR LOUDEN: You're telling me then you don't think the price of appraisal will go up with this law?

ROBERT HALLSTROM: That's not what I said, Senator. I just said that we're not just sitting here saying just because the cost goes up and we might not pay it directly isn't something that we're deeply concerned about.

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SENATOR LOUDEN: Well, I understand that. Thank you.

ROBERT HALLSTROM: Thank you.

SENATOR MINES: Any other questions? Thank you, Bob.

ROBERT HALLSTROM: Thank you, Senator.

SENATOR MINES: Nice to see you. Other testifiers in support? Justin, always nice to have you here.

JUSTIN BRADY: Thank you. Chairman Mines and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I'm appearing today as the registered lobbyist on behalf of the Nebraska Realtors Association. And in an attempt to not repeat everything you've heard, I'll just say they're in support of (LB) 778. And I'd take any questions, if you have them.

SENATOR MINES: Questions for Mr. Brady? Great testimony, Justin. Thank you (laughter).

JUSTIN BRADY: Thank you.

SENATOR MINES: Next testifier. Good afternoon.

JOHN CHILDEARS: (Exhibit 4) Good afternoon, Chairman Mines and Senators. I'm John Childears, J-o-h-n C-h-i-l-d-e-a-r-s. I'm a farm and ranch real estate appraiser and I came here from North Platte today to thank you for letting me testify. A little bit of history on myself so that you know where I'm coming from. I started as a farm-ranch real estate appraiser trainee in 1975, was licensed by the state of Nebraska in 1980. That, of course, was prior to the current licensing law. I earned the accredited rural appraiser title from the American Society of Farm Managers and Rural Appraisers in 1982. I served on their national education committee for a number of years, taught classes for them at that time, and then was on the committee that was to draft the original appraisal law which we now have and sat on the first appraisal board, appointed by the governor for the first appraisal board.

SENATOR MINES: Who was that governor?

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JOHN CHILDEARS: Governor Orr.

SENATOR MINES: It was Governor Orr, okay, thank you.

JOHN CHILDEARS: (Laugh) Please excuse me just a little bit because everything that I intended to say has been already said, and so I'm going to try to say some other things. The Appraisal Foundation is the federal oversight entity that comes in and examines much like a bank examiner, examines the Nebraska Appraisal Board. They were created during the debacle of savings and loans situation in the 1980s where it affected the coasts, the Gulf Coast, and especially one big one in Denver where there was a total collapse of housing values, of commercial buildings, and so forth, and proven that there were appraisers in concert with lenders that kited the values and, you know, we just had a terrible situation. At that point, nine appraisal organizations across the U.S. got together and they made, they created The Appraisal Foundation. The whole intent was to police their own industry and create an appraisal industry that did things right, was ethical, they were competent appraisers, et cetera. They today are not actually part of the federal government, but the federal government utilizes them as an oversight on all of the state appraiser licensing boards across the country. So they have...and technically they're not federal, but in reality they are. They publish, which Cay Lacey just showed you, the Uniform Standards of Professional Appraisal Practice. That book is the Bible for appraisers that says, if you're going to appraise a feedlot in Kansas, you must have the competency to do that. If you don't have the experience, if you don't understand the feedlot industry, et cetera, et cetera, you're to say to the client, I can't do your appraisal. Amongst other things, they try to police the industry and make certain that when you as a banker hire an appraiser to appraise that new commercial building, that, in fact, you will get a good appraisal that will be the foundation of your loan. If you, sirs, do not pass the legislation as it is presented, the state can be found in noncompliance as you've already been told by a couple of people. If that were to happen, then to make loans from the banking industry you would have to import appraisers from out-of-state that were in compliance and properly credentialed in this state to do that. So it is absolutely a must that the bill be passed. I, too, have a little bit of problem with the college degree. I think

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maybe they are going way above board. The 300 hours to be a Certified General...by the way, I am a Certified General...the 300 hours is overboard. But we do not have the power to fight them. If we fight them what we simply do is make our state out of compliance and we're not able to function in banking and industry. So, although I don't like dictation from the great white father, we've pretty much got to go along with it or be out of compliance. I want to talk to you about the registered level of appraisers in Nebraska. Having set on that first appraiser board, the intent was to sunset registered appraisers in the mid-1990s. That would give them time, and let me back up. When the law came into effect, all of those that had previously had an appraisal license under the Nebraska Real Estate Commission could be grandfathered into the registered category. Those that wished to take the schooling or had already taken the schooling and passed the test could go right on up to the Licensed, Certified Residential, or Certified General. There are, by Ms. Ekstein's indication to me, there are 892 total appraisers today in Nebraska, 892. Of those, there are 280 that are registered appraisers. Does anybody have a glass of water, sir, please? Of those 280, there are 69 that were grandfathered at the inception of the rule so they have had 15 years already to go up to another level. And they have chosen not to, they remain as a registered appraiser. Out of that 280, there are also 64 that are employees of county assessors' offices, state highway department, some of those kinds of things. Thank you very much, sir. I'm not nervous because I'm afraid of testifying. I am nervous because this is a very important issue to me as an appraiser so I apologize for my nervousness.

SENATOR MINES: You're doing great.

JOHN CHILDEARS: The appraiser category, as has been indicated, was supposed to sunset. Unfortunately, that did not happen and so today we have a large number, 280, registered appraisers. Then if you will look at the chart that I presented to you, that are legal by our state law to appraise anything that they want to appraise. They are, however, supposed to abide by USPAP and not attempt an appraisal for which they are not qualified. But that is a self policing situation until they're reported to the board and the board then jerks them in and examines whether they

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were certified or not. In addition, they can do nonfederally-related transactions. The IRS, for example, is a nonfederally-related situation. So the registered appraiser can be hired to do the appraisal of 60,000 acres in the Sandhills and settle mom's and dad's estate where a Licensed appraiser or a Certified Residential is not qualified to do that. They cannot do that appraisal, but a registered person can. I think we have a big difficulty in the appraisal law only on this part. They've had 15 years to become at a higher level; they've chosen not to. They can do appraisals that other appraisers in the state cannot do. And, if, for instance, you had a large estate that you and your siblings were going to settle or if you had a heart attack, you wouldn't go around and say, I want to find the cheapest appraiser I can find. You're going to want to find one that is competent and you're going to want to pay that bill for that competency to settle those situations. If the registered portion of this bill is continued the way that it is, the board will continue to issue registered level and compound the situation further. We'll have more and more registered people. Those that have already had 15 years by the way the bill is now written will have an additional ten years in the industry. In other words, they could practice for 25 years without ever having the level of competency, education, experience, and so forth. The appraisal profession is one much like many other professions that schooling and testing is not the final measure. Getting the experience and the capability from on-the-job training is what is really, really important. And back to the physician's assistant or whatever you want to speak about there, once they are through with their education they must go through a mentoring, training process before they can ever become fully licensed to go ahead. Now, the appraisal industry is not anything near like a physician's assistant, and I believe that The Appraisal Foundation is trying to make it be that way. And that's where I think they're overboard. But on the other hand, just because somebody has the education and a registered credential, I think there are lots of situations that you can envision that you would not want that registered appraiser legal to appraise that property. My suggestion to you is that we bring forward that sunset of the registered, that we stop giving registered credentials and compounding the situation more and more. Pass the rest of the bill, please, but please address and change that registered situation.

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SENATOR MINES: Great. Thanks, Mr. Childears.

JOHN CHILDEARS: Thank you very much.

SENATOR MINES: Good testimony. Questions? Senator Jensen.

SENATOR JENSEN: Yes, Mr. Childears. Near North Platte, how many farm and ranch appraisers is Certified, or not Certified...

JOHN CHILDEARS: Certified General.

SENATOR JENSEN: ...Yeah, right, are there west of you?

JOHN CHILDEARS: I will tell you that there are probably not enough. We need more. And that's what gives me a little bit of concern about the 300 hours and so forth. But we do keep the appraisal work done out there, and I cannot tell you the exact number. I can tell you that of the 280 registered appraisers, 213 of those 280 registered appraisers live east of Grand Island.

SENATOR JENSEN: Yeah I did read that in there. I mean, I guess my concern is, are there transactions that are being held up because of lack of qualified appraisers?

JOHN CHILDEARS: Only held up, sir, to a frustration level, not held up so that our commerce and our industry and our banking is messed up. But, yes, and that also relates to house appraisals in North Platte or Scottsbluff, whatever. We don't have enough, but we need to have enough that are properly educated, experienced, and so forth.

SENATOR JENSEN: I understand.

JOHN CHILDEARS: I wish we had more.

SENATOR JENSEN: Yeah.

JOHN CHILDEARS: By the way, I do appraisals that I wouldn't ever compete with a registered appraiser. I don't do that kind of work. I do different work.

SENATOR JENSEN: Sure.

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SENATOR MINES: Any other questions for Mr. Childears?
Senator Johnson.

SENATOR JOHNSON: Well, I just got to thinking here. I wonder if we're talking the same thing and what I'm getting at is these number of hours and so on. One of the things to get a college degree, basically, you're talking about 125 hours of course work. Now, when we start talking 300 in those same terms, we're talking at least a master's degree, if not a Ph.D.

JOHN CHILDEARS: No, excuse me.

SENATOR JOHNSON: And so, (laugh) if I...what I'm wondering here is if we're not talking a different kind of hours.

JOHN CHILDEARS: That's exactly correct, sir...

SENATOR JOHNSON: And so that we're...we got to watch we don't compare apples and oranges in that when we talk 300 hours, I presume that we're talking going to school 40 hours a week for however many weeks it takes to get the 300.

JOHN CHILDEARS: That's exactly correct, sir. For instance, the American Society of Farm Managers and Rural Appraisers has a series of courses that build up to you being able to achieve the highest level of accredited rural appraiser. And those are classroom hours so they have week-long classes where you go and you spend five days, eight hours a day in that, and that's 40 hours of credit. So, the 300 is 300 classroom hours of appraisal-related situations. Now, at the University of Nebraska, you can take the appraisal course. You can take business law. You can take a couple, three other courses at the University of Nebraska and I presume at a lot of other institutions around Nebraska, and those classes qualify towards that 300 hours.

SENATOR JOHNSON: Okay, one last thing is you notice I've been sitting here this afternoon, particularly with this discussion, but with the others as well. One thing that came to mind is this and I guess it was reflected a little bit in the questions I asked before is a few years ago Arthur Andersen company got in trouble because they forgot

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that what they really were selling was their judgment and their word. And I guess to me, that's what I see as the most important thing that we have to make sure that we can assure to the people in Nebraska that your services are accurate and that, you know,...

JOHN CHILDEARS: Senator, that is exactly my train of mind. When the appraisal board licenses or credentials...let me use the word credentials somebody, and a banker, siblings to settle an estate, whatever the reason is, they call an appraiser and ask him to come appraise. They need to know that, in fact, they're getting a medical doctor that has a license down the road. Again, appraising is not at that level but we need to provide appraisers in Nebraska that are proper, ethical, trained, you know, all of those nice words.

SENATOR MINES: Any other questions for Mr. Childears? Thank you. We appreciate your coming in today.

JOHN CHILDEARS: Thank you very much, appreciate it.

SENATOR MINES: Appreciate your testimony. Are there other testimony? In opposition? Thank you. And neutral? Senator Langemeier, you're recognized to close.

SENATOR LANGEMEIER: I'll be very brief so we can all go home. I just want to clarify one thing. The training category that's being proposed that would replace registered is ongoing. Once you become a trainee, it's an ongoing, there's no expiration date. There is a requirement that after you have that license or that level for two years, then you fall into the requirement of continuing education which all licenses have. So every two years you have to create continuing ed. I also had my notes with the classroom hours. I want to specify again that it is 300 classroom hours versus the 30 credit hours at a higher education license. And to give a little more, just one final kind of history with registered, you take...I live in Colfax County, and as we hear in eminent domain is a big issue we all talk about. These registered appraisers and all appraisers sit in on eminent domain type hearings. I happened to sit in front of a board at an eminent domain hearing for a government agency taking a piece of ground last year. And that board is made up of appraisers so they have to use appraisers that reside within the county. Well,

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my county there's four of us. I'm Certified General; there's one Licensed, and two that are registered. So they brought out the two registered appraisers that haven't been appraising for the past 16 years. Matter of fact, when I got started, I bought one of them out. He hasn't been active for 16 years. The other one isn't neither, sat on that board to make that decision. They haven't been in...they've held that credential with a minimum of continuing education for 15 years, and then came forth that day, spent 45 minutes hearing testimony from two sides and spent about \$950,000 of state dollars on behalf of the state of Nebraska. And with that, I'll close. If there's any other questions.

SENATOR MINES: Any questions for Senator Langemeier? I see none.

SENATOR LANGEMEIER: Thank you.

SENATOR MINES: Thank you for your testimony. That concludes the testimony for LB 778 and concludes our public hearings for the day. Thank you all for being here.